



PATENT
Docket No. SU103 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re: Application of Michael J. Precopio

Serial No. 10/519, 372
Filed: 12/23/2004

Examiner: Neil Levy
Art Unit: 1615

Title: METHODS FOR TREATING ECTOPARASITE INFECTIONS ON THE MAMMALIAN BODY

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on 03/03/2008.

Date: 03/03/2008

Henry E. Millson Jr.
Signature of certifier

Henry E. Millson, Jr.
Typed or printed name of certifier

LETTER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This letter with attachments is in response to the "Notification of Non-Compliant Appeal Brief" dated 02/22/2008.

It is respectfully submitted that the attached amended pages 3 and 5 now fully comply with the requirements of the above notification.

Serial No. 10/519, 372
Art Unit: 1615

In particular, the limitations in claim 1 have been mapped to the specification by page and line number on enclosed amended page 3.

Also on page 3, dependent claims 8 and 9 have been given page and line numbers.

Page 4 is included without any substantive changes other than text shifts due to the changes on page 3.

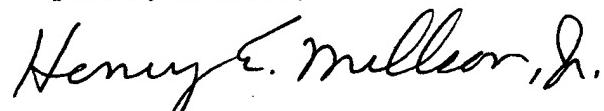
Page 5 contains amendments to "Dependent claims 60 and 61", "Dependent claim 62", and "Dependent claim 63" to more fully comply with the page and line number requirements.

Also, page 5A is included since the above changes required text to be transferred to an additional page.

It is believed that the above changes make the appeal brief in full compliance with the requirements of 37 CFR 41.37.

Further processing of the brief before the Board of Appeals is respectfully solicited.

Respectfully submitted,



Henry E. Millson, Jr.
Reg. No. 18980
675 Golden Hawk Drive
Prescott, Arizona 86301
phone and fax (928) 445-2453



Serial No. 10/519, 372
Art Unit: 1615

water soluble or dispersible, substantially air-impermeable pharmacologically acceptable barrier composition containing at least one pesticidally active monohydric alcohol, (a) in which the composition contains from 1-50% by weight of the alcohol, (b) formulated to keep air from their breathing apparatuses, (c) applied to completely saturate the hair and skin, (d) wherein the composition can be readily rinsed out with water, and (e) the composition is free from any other pesticidally active compounds. See pages 3, line 20-page 4, line 12; page 4, lines 13-16; page 8, lines 8-14; and page 8, lines 15-17 of the application.

Dependent claims 3-7 are directed to various time frames for which the composition is left in contact with the skin and hair. See page 5, line 17 – page 6, line 2.

Dependent claims 8 and 9: These claims limit the monohydric aralkyl alcohols used in the method to those of formula (I). See page 7, lines 5-15.

Dependent claim 11 limits the mammal to humans in claim 8. See page 5 , lines 1-4.

Dependent claim 13 limits the composition of claim 8 to a water containing gel. See page 9, lines 11-13 and original claim 13.

Dependent claims 15 and 16, dependent on claim 8, relate to carrying out the method steps twice. See page 10, lines 15-19 and original claims 15 and 16.

Dependent claim 18 relates to carrying out step c) with water. See page 6, lines 3 and 4.

Dependent claims 20 and 21, dependent on claim 1, add additional components to the composition. See page 10, line 20 - page 11, line 7.

Dependent claims 22-26 dependent on claim 1, set forth quantities of monohydric aralkyl alcohol present in the composition. See page 4, lines 13-19.

Dependent claims 33 and 34, dependent on claim 1, set forth time frames for step (C) of claim 1. See page 6, lines 6-7.

Dependent claims 35 and 36, dependent on claims 1 and 35 respectively, set forth kill percentages. See original claims 35 and 36 and Examples 15 and 16 on pages 24-30.

Independent claim 45: This claim is directed to a method for the topical treatment of lice, their nymphs and nits using compositions containing benzyl alcohol as the monohydric aralkyl alcohol. See e.g. page 5, lines 11-14 and page 7, lines 13-14.

Dependent claim 46, dependent on claim 45, limits the mammalian skin and hair to human skin and hair. See page 5, lines 1-4.

Dependent claim 47, dependent on claim 45, limits the contact time in which the composition is in contact with the skin and hair. See page 5, line 17 – page 6, line 2.

Dependent claims 48 and 49, dependent on claim 45 and 48 respectively, relate to carrying out the method steps twice. See page 10, lines 15-19 and original claims 15 and 16.

Dependent claim 50 dependent on claim 45, limits the lice to head lice. See page 5, lines 11-13.

Dependent claim 51, dependent on claim 45, limits step (C) to the use of water. See page 6, lines 3-4.

Dependent claim 52, dependent on claim 45, limits the composition to a water-containing gel. See page 9, lines 11-13 and original claim 13.

Serial No. 10/519, 372
Art Unit: 1615

Dependent claims 53 and 54, dependent on claim 45 and 53 respectively, add additional components to the composition. See page 10, line 20 - page 11, line 7.

Dependent claims 55-59, dependent on claim 45, set forth the quantities of benzyl alcohol present in the composition. See page 4, lines 13-19.

Dependent claims 60 and 61, dependent on claim 45, set forth the kill percentages for the lice. See original claims 35 and 36 and Examples 15 and 16 on pages 24-30, and especially page 27, lines 5-6 and page 30, lines 12-14.

Dependent claim 62, dependent on claim 45, sets forth a time period for contact of the composition with skin and hair, that the lice are head lice, and that the mammalian skin and hair is that of a human being. See claims 47, 50, and 46, and page 5, line 17-page 6, line 2; page 5, lines 11-13; and page 5, lines 1-4.

Dependent claim 63, dependent on claim 62, adds components to the composition. See claim 53, and page 10, line 20 - page 11, line 7.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1, 3-9, 11, 13, 15, 16, 18, 20-26, and 33-36 have been rejected under 35 USC 112, first paragraph as failing to comply with the enablement requirement.

Claims 45-48 and 50-63 have been rejected under 35 USC 102(b) as being anticipated by Gans et al US 2003/0040504.

Claims 1, 3-9, 11, 13, 15, 16, 18, 20-26, 33-36 and 45-63 have been rejected under 35 USC 103(a) as being unpatentable over Lover 4368207 and Bessette 6974584 and Cardin et al 5288483 in view of Pearlman 6303581.

Serial No. 10/519, 372
Art Unit: 1615

Claims 1, 3-5, 8, 9, 13, 18, 20, 22-26, 33 have been rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 28, 29, 31-38 of Patent No. 6793931.

Serial No. 10/519, 372
Art Unit: 1615



water soluble or dispersible, substantially air-impermeable pharmacologically acceptable barrier composition containing at least one pesticidally active monohydric alcohol, (a) in which the composition contains from 1-50% by weight of the alcohol, (b) formulated to keep air from their breathing apparatuses, (c) applied to completely saturate the hair and skin, (d) wherein the composition can be readily rinsed out with water, and (e) the composition is free from any other pesticidally active compounds. See pages 3, line 20-page 4, line 12; page 4, lines 13-16; page 8, lines 8-14; and page 8, lines 15-17 of the application.

Dependent claims 3-7 are directed to various time frames for which the composition is left in contact with the skin and hair. See page 5, line 17 – page 6, line 2.

Dependent claims 8 and 9: These claims limit the monohydric aralkyl alcohols used in the method to those of formula (I). See page 7, lines 5-15.

Dependent claim 11 limits the mammal to humans in claim 8. See page 5 , lines 1-4.

Dependent claim 13 limits the composition of claim 8 to a water containing gel. See page 9, lines 11-13 and original claim 13.

Dependent claims 15 and 16, dependent on claim 8, relate to carrying out the method steps twice. See page 10, lines 15-19 and original claims 15 and 16.

Dependent claim 18 relates to carrying out step c) with water. See page 6, lines 3 and 4.

Dependent claims 20 and 21, dependent on claim 1, add additional components to the composition. See page 10, line 20 - page 11, line 7.

Serial No. 10/519, 372
Art Unit: 1615

Dependent claims 22-26 dependent on claim 1, set forth quantities of monohydric aralkyl alcohol present in the composition. See page 4, lines 13-19.

Dependent claims 33 and 34, dependent on claim 1, set forth time frames for step (C) of claim 1. See page 6, lines 6-7.

Dependent claims 35 and 36, dependent on claims 1 and 35 respectively, set forth kill percentages. See original claims 35 and 36 and Examples 15 and 16 on pages 24-30.

Independent claim 45: This claim is directed to a method for the topical treatment of lice, their nymphs and nits using compositions containing benzyl alcohol as the monohydric aralkyl alcohol. See e.g. page 5, lines 11-14 and page 7, lines 13-14.

Dependent claim 46, dependent on claim 45, limits the mammalian skin and hair to human skin and hair. See page 5, lines 1-4.

Dependent claim 47, dependent on claim 45, limits the contact time in which the composition is in contact with the skin and hair. See page 5, line 17 – page 6, line 2.

Dependent claims 48 and 49, dependent on claim 45 and 48 respectively, relate to carrying out the method steps twice. See page 10, lines 15-19 and original claims 15 and 16.

Dependent claim 50 dependent on claim 45, limits the lice to head lice. See page 5, lines 11-13.

Dependent claim 51, dependent on claim 45, limits step (C) to the use of water. See page 6, lines 3-4.

Dependent claim 52, dependent on claim 45, limits the composition to a water-containing gel. See page 9, lines 11-13 and original claim 13.

Serial No. 10/519, 372
Art Unit: 1615

Dependent claims 53 and 54, dependent on claim 45 and 53 respectively, add additional components to the composition. See page 10, line 20 - page 11, line 7.

Dependent claims 55-59, dependent on claim 45, set forth the quantities of benzyl alcohol present in the composition. See page 4, lines 13-19.

Dependent claims 60 and 61, dependent on claim 45, set forth the kill percentages for the lice. See original claims 35 and 36 and Examples 15 and 16 on pages 24-30, and especially page 27, lines 5-6 and page 30, lines 12-14.

Dependent claim 62, dependent on claim 45, sets forth a time period for contact of the composition with skin and hair, that the lice are head lice, and that the mammalian skin and hair is that of a human being. See claims 47, 50, and 46, and page 5, line 17-page 6, line 2; page 5, lines 11-13; and page 5, lines 1-4.

Dependent claim 63, dependent on claim 62, adds components to the composition. See claim 53, and page 10, line 20 - page 11, line 7.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1, 3-9, 11, 13, 15, 16, 18, 20-26, and 33-36 have been rejected under 35 USC 112, first paragraph as failing to comply with the enablement requirement.

Claims 45-48 and 50-63 have been rejected under 35 USC 102(b) as being anticipated by Gans et al US 2003/0040504.

Claims 1, 3-9, 11, 13, 15, 16, 18, 20-26, 33-36 and 45-63 have been rejected under 35 USC 103(a) as being unpatentable over Lover 4368207 and Bessette 6974584 and Cardin et al 5288483 in view of Pearlman 6303581.

Serial No. 10/519, 372
Art Unit: 1615

Claims 1, 3-5, 8, 9, 13, 18, 20, 22-26, 33 have been rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 28, 29, 31-38 of Patent No. 6793931.



Serial No. 10/519, 372
Art Unit: 1615

water soluble or dispersible, substantially air-impermeable pharmacologically acceptable barrier composition containing at least one pesticidally active monohydric alcohol, (a) in which the composition contains from 1-50% by weight of the alcohol, (b) formulated to keep air from their breathing apparatuses, (c) applied to completely saturate the hair and skin, (d) wherein the composition can be readily rinsed out with water, and (e) the composition is free from any other pesticidally active compounds. See pages 3, line 20-page 4, line 12; page 4, lines 13-16; page 8, lines 8-14; and page 8, lines 15-17 of the application.

Dependent claims 3-7 are directed to various time frames for which the composition is left in contact with the skin and hair. See page 5, line 17 – page 6, line 2.

Dependent claims 8 and 9: These claims limit the monohydric aralkyl alcohols used in the method to those of formula (I). See page 7, lines 5-15.

Dependent claim 11 limits the mammal to humans in claim 8. See page 5 , lines 1-4.

Dependent claim 13 limits the composition of claim 8 to a water containing gel. See page 9, lines 11-13 and original claim 13.

Dependent claims 15 and 16, dependent on claim 8, relate to carrying out the method steps twice. See page 10, lines 15-19 and original claims 15 and 16.

Dependent claim 18 relates to carrying out step c) with water. See page 6, lines 3 and 4.

Dependent claims 20 and 21, dependent on claim 1, add additional components to the composition. See page 10, line 20 - page 11, line 7.

Dependent claims 22-26 dependent on claim 1, set forth quantities of monohydric aralkyl alcohol present in the composition. See page 4, lines 13-19.

Dependent claims 33 and 34, dependent on claim 1, set forth time frames for step (C) of claim 1. See page 6, lines 6-7.

Dependent claims 35 and 36, dependent on claims 1 and 35 respectively, set forth kill percentages. See original claims 35 and 36 and Examples 15 and 16 on pages 24-30.

Independent claim 45: This claim is directed to a method for the topical treatment of lice, their nymphs and nits using compositions containing benzyl alcohol as the monohydric aralkyl alcohol. See e.g. page 5, lines 11-14 and page 7, lines 13-14.

Dependent claim 46, dependent on claim 45, limits the mammalian skin and hair to human skin and hair. See page 5, lines 1-4.

Dependent claim 47, dependent on claim 45, limits the contact time in which the composition is in contact with the skin and hair. See page 5, line 17 – page 6, line 2.

Dependent claims 48 and 49, dependent on claim 45 and 48 respectively, relate to carrying out the method steps twice. See page 10, lines 15-19 and original claims 15 and 16.

Dependent claim 50 dependent on claim 45, limits the lice to head lice. See page 5, lines 11-13.

Dependent claim 51, dependent on claim 45, limits step (C) to the use of water. See page 6, lines 3-4.

Dependent claim 52, dependent on claim 45, limits the composition to a water-containing gel. See page 9, lines 11-13 and original claim 13.

Serial No. 10/519, 372
Art Unit: 1615

Dependent claims 53 and 54, dependent on claim 45 and 53 respectively, add additional components to the composition. See page 10, line 20 - page 11, line 7.

Dependent claims 55-59, dependent on claim 45, set forth the quantities of benzyl alcohol present in the composition. See page 4, lines 13-19.

Dependent claims 60 and 61, dependent on claim 45, set forth the kill percentages for the lice. See original claims 35 and 36 and Examples 15 and 16 on pages 24-30, and especially page 27, lines 5-6 and page 30, lines 12-14.

Dependent claim 62, dependent on claim 45, sets forth a time period for contact of the composition with skin and hair, that the lice are head lice, and that the mammalian skin and hair is that of a human being. See claims 47, 50, and 46, and page 5, line 17-page 6, line 2; page 5, lines 11-13; and page 5, lines 1-4.

Dependent claim 63, dependent on claim 62, adds components to the composition. See claim 53, and page 10, line 20 - page 11, line 7.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1, 3-9, 11, 13, 15, 16, 18, 20-26, and 33-36 have been rejected under 35 USC 112, first paragraph as failing to comply with the enablement requirement.

Claims 45-48 and 50-63 have been rejected under 35 USC 102(b) as being anticipated by Gans et al US 2003/0040504.

Claims 1, 3-9, 11, 13, 15, 16, 18, 20-26, 33-36 and 45-63 have been rejected under 35 USC 103(a) as being unpatentable over Lover 4368207 and Bessette 6974584 and Cardin et al 5288483 in view of Pearlman 6303581.

Serial No. 10/519, 372
Art Unit: 1615

Claims 1, 3-5, 8, 9, 13, 18, 20, 22-26, 33 have been rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 28, 29, 31-38 of Patent No. 6793931.